

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-3184

Patricia Ann Goodale; Michael H.
Goodale,

Appellants,

v.

Gate City Bank; Steven Swiontek,
Chairman, President, and Chief
Executive Officer; Blaise P. Johnson,
Executive Vice-President/Director of
Lending,

Appellees.

*
*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
District of North Dakota.

[UNPUBLISHED]

Submitted: February 2, 2005

Filed: February 2, 2005

Before WOLLMAN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

The Goodales appeal the district court's¹ preservice dismissal with prejudice of their complaint for failure to state a claim, and request oral argument before this

¹The Honorable Ralph Erickson, United States District Judge for the District of North Dakota, adopting the report and recommendations of the Honorable Karen K. Klein, United States Magistrate Judge for the District of North Dakota.

court. We deny the motion for oral argument. Having reviewed the record, we conclude that dismissal was proper for the reasons the district court stated. Accordingly, we affirm. See 8th Cir. R. 47B. However, we modify the dismissal of the state law claims to be without prejudice. See Labickas v. Ark. State Univ., 78 F.3d 333, 334-35 (8th Cir.) (per curiam) (affirming district court order of dismissal for failure to state claim, but modifying it to be without prejudice for state law claims), cert. denied, 519 U.S. 968 (1996).
